

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

JANE DOE

Plaintiff,

v.

Case No. 1:11 CV 1105

LINDA HOWARD,
RUSSELL HOWARD

Defendants.

**NOTICE AND DECLARATION OF DANIEL E. CHUDD REGARDING DEFENDANT
LINDA HOWARD'S FAILURE TO APPEAR FOR A DEPOSITION, TO PRODUCE
RESPONSIVE DOCUMENTS, OR ANSWER INTERROGATORIES**

I, DANIEL E. CHUDD, being an attorney duly admitted to the practice of law in this Court, hereby declare as follows:

1. I am a partner at Jenner & Block LLP, attorneys for Plaintiff Jane Doe in the above-captioned matter.
2. On June 1, 2012, I moved to compel the appearance of Defendant Linda Howard at an oral deposition pursuant to the Federal Rules of Civil Procedure 37 and Local Civil Rule 37(A) (Docket No. 92).
3. I filed this Motion to Compel after Defendant Linda Howard failed to appear for an oral deposition on May 29, 2012, after she had been served on May 15, 2012 with a Revised Notice of Intent to Take an Oral Deposition, setting the May 29, 2012 date. Before May 29,

2012, the Court had previously warned Mrs. Howard in its order of May 23, 2012 (Docket No. 88) of the consequences of failing to participate in discovery in this case.

4. On June 5, 2012, I moved to compel the production of documents pursuant to the Federal Rules of Civil Procedure 37 and Local Civil Rule 37(A) (Docket No. 94).

5. This Motion to Compel was filed after Defendant Linda Howard failed to respond to Plaintiff Jane Doe's Second Request for the Production of Documents by June 4, 2012. This Court's May 23, 2012 Order required her to participate in discovery or face sanctions, including the entry of default judgment against her (Docket No. 88).

6. On June 15, 2012, I moved to compel responses to interrogatories pursuant to the Federal Rules of Civil Procedure and Local Civil Rule 37(A) (Docket No. 96), after Defendant Linda Howard failed to respond to Jane Doe's Second Interrogatories, dated May 15, 2012.

7. Following a hearing on these motions, the Court issued an Order on June 18, 2012, granting Plaintiff's motions to compel appearance at a deposition and to compel the production of documents by July 2, 2012. The Court further ordered the Defendant to answer Jane Doe's interrogatories within 14 days of the issuance of the Order, or by July 2, 2012 (Docket No. 99).

8. In this Order, the Court stated that upon Plaintiff counsel's certification of Defendant's failure to comply on or before July 2, 2012, he would strike her answer to Jane Doe's complaint.

9. I hereby certify that, as of July 13, 2012, Defendant Linda Howard has neither appeared for a deposition nor provided Jane Doe with alternative dates for such an appearance.

10. I further certify that, as of July 13, 2012, Defendant Linda Howard neither produced documents responsive to Jane Doe's Second Request for the Production of Documents nor provided responses to Jane Doe's Second Interrogatories.

11. Although Defendant Linda Howard sent a letter to Magistrate Judge Jones on July 2, 2012 (Docket No. 103), the letter fails to respond to these requests, to provide a date for Defendant's deposition, to provide responsive documents, to answer any interrogatories, or respond in any manner to the Court's Order granting Plaintiff's motions to compel.

12. Accordingly, having provided the certification required by this Court's Order on Plaintiff's Motions to Compel, Plaintiff respectfully requests pursuant to that Order that Defendant's Response to the Complaint (Docket Nos. 13 and 23) and Defendant's Answer to the Amended Complaint (Docket No. 27) be struck from the record in this case.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 13, 2012, in Washington, D.C.

/s/ Daniel E. Chudd
DANIEL E. CHUDD (VA Bar No. 65335)
Attorney for Plaintiff Jane Doe

CERTIFICATE OF SERVICE

I hereby certify that on July 13, 2012, a true and correct copy of the foregoing Notice and Declaration of Daniel E. Chudd Regarding Defendant Linda Howard's Failure to Appear for a Deposition, Produce Responsive Documents, or Answer Interrogatories was electronically filed. As such, this notice was served on all parties who are deemed to have consented to electronic service. On July 13, 2012, I also caused to be served by electronic mail and by U.S. Mail, a copy of the Motion upon the following:

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/s/ Daniel E. Chudd

DANIEL E. CHUDD (VA Bar No. 65335)

Attorney for Plaintiff Jane Doe